



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

December 8, 2020
Ref: 8ENF-AT

SENT VIA EMAIL
DIGITAL READ RECEIPT REQUESTED

PFISpeed Tube L.L.C.
Brent Leivestad, Agent
9230 County Road 24
Fort Lupton, CO 80621
sales@pfispeed.com

Re: Request for Information Under Section 208(a) of the Clean Air Act, 42 U.S.C.
§ 7542(a)

Dear Mr. Leivestad,

The United States Environmental Protection Agency (EPA) hereby requires PFISpeed Tube L.L.C. (PFISpeed) to submit certain information as part of the EPA's investigation to determine PFISpeed's compliance with section 203 of the Clean Air Act (CAA), 42 U.S.C. § 7522. Examples of vehicles regulated under the CAA include, but are not limited to, diesel trucks and light-duty gasoline vehicles. Appendix A provides definitions, Appendix B provides instructions for PFISpeed's responses to this request, and Appendix C specifies the information that PFISpeed must submit.

The EPA issues this Request for Information (RFI) under section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager of Region 8's Air Enforcement Office, Enforcement and Compliance Assurance Division.

PFISpeed must submit responses to this RFI to the EPA representative listed below within 30 calendar days from the date of receipt of this letter. Please carefully review the instructions, definitions, and specific requests as PFISpeed prepares its response. If PFISpeed anticipates being unable to fully respond to the RFI by this date, PFISpeed must contact Steven Hine at (303) 312-6624 or Hine.Steven@epa.gov to request an extension. Any request should be made as soon as possible after receipt of this RFI and must include an explanation of why an extension is necessary and include a proposed timeline for providing the requested information. The EPA will review PFISpeed's request and may extend the time in which the response must be provided to some or all of the questions.

Failure to provide the requested information may result in the initiation of a civil action pursuant to section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that PFISpeed’s responses be clear, accurate, organized, and complete. We will regard any information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. The EPA may use any information submitted in response to this RFI in an administrative, civil, or criminal action.

PFISpeed must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

PFISpeed is entitled to assert a business confidentiality claim covering all or part of the information it submits in response to this RFI, in accordance with the procedures described in the Confidentiality of Business Information (CBI) regulations, 40 C.F.R. part 2, subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). PFISpeed must specify the page, paragraph, and sentence when identifying the information subject to its CBI claim. Appendix E of this RFI specifies the assertion requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please be advised that some companies may qualify as a “small business” under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). To help small business owners assess their small business status, the U.S. Small Business Administration (SBA) has established a Table of Small Business Size Standards, which can be found at:

http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf. If PFISpeed qualifies as a small business, please review the SBREFA Information Sheet designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning the EPA’s enforcement activities. The SBREFA Information Sheet can be found at:

<http://nepis.epa.gov/Exe/ZyPDF.cgi/P100BYAV.PDF?Dockey=P100BYAV.PDF>. Please be aware that SBREFA does not eliminate PFISpeed’s responsibility to respond in a timely fashion to any complaint or RFI that the EPA may issue or other enforcement action that the EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman. If PFISpeed is unable to access the links provided or

needs a hard copy, please contact Steven Hine, the Enforcement Officer listed below.

Please provide all requested information, via electronic or overnight delivery, to:

Steven Hine
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street (8ENF-AT)
Denver, CO 80202
Hine.Steven@epa.gov

The EPA acknowledges that the COVID-19 pandemic may be impacting PFISpeed's business. If that is the case, the EPA will consider PFISpeed's specific circumstances in determining an appropriate timeline for responding to this RFI, while still ensuring that the EPA receives the information it needs to timely confirm PFISpeed's compliance with the Act.

Any questions concerning this RFI should be directed to Steven Hine at (303) 312-6624 or Hine.Steven@epa.gov. If PFISpeed chooses to be represented by an attorney, please direct questions to Marc Weiner in the Office of Regional Counsel at (303) 312-6913 or Weiner.Marc@epa.gov.

Sincerely,

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

Enclosures: Appendix A: Instructions
Appendix B: Definitions
Appendix C: Request for Information
Appendix D: Confidential Business Information
Appendix E: Statement of Certification
Appendix F: Spreadsheet (email attachment) for Responses to Request 4

Appendix A

Definitions

All terms used in this Request for Information (RFI) will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. parts 85, 86, and 1068, in which case they shall have their meanings as defined therein.

1. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
2. The term “you,” “your,” and “PFISpeed” means PFISpeed Tube L.L.C., and any affiliates, predecessors, successors, and assignees.
3. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
4. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions.
5. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
6. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
7. The term “product” includes any software code, software, hardware, program, calibration, engine tune, EM product, device, part, or component.
8. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to, exhaust gas recirculation (EGR) block plates, EGR delete kits, exhaust replacement pipes, and straight pipes. This term does not include ancillary exhaust components such as clamps, hangers, nuts, bolts, and gaskets that are not capable of impacting or replacing emission related parts.

Appendix B

Instructions for Responses

1. Please provide your response to this RFI in electronic form. Please provide your responses to Request 4 in Appendix C in the attached Excel spreadsheet (Appendix F).
2. Provide copies of documents, not original documents.
3. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
4. Where you have previously submitted information to the EPA that is responsive to any of the Requests set forth in Appendix C, re-submit that information in accordance with these instructions (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at the EPA to whom it was provided.
5. This RFI is a continuing request. You must promptly supplement your response to any Request in Appendix C in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this RFI.

Appendix C

Request for Information

PFISpeed must submit the following information to the United States Environmental Protection Agency pursuant to section 208 of the CAA, 42 U.S.C. § 7542, regarding the installation or sale of parts and products.

1. Copies of invoices for all work performed by PFISpeed from January 1, 2019, through the date of this RFI, including work involving removal of emission related parts or the installation of any product.
2. Copies of invoices for all engine management (EM) products sold by PFISpeed from January 1, 2019, through the date of this RFI.
3. Copies of invoices for all exhaust products sold by PFISpeed from January 1, 2019, through the date of this RFI.
4. Use the attached spreadsheet in Appendix F to identify each Tuning Product PFISpeed manufactured, sold, offered for sale, or installed during the period from January 1, 2019, through the date of this letter, and provide the following:
 - a. Part Number, Item Code, or other unique identifier used by PFISpeed;
 - b. Product name;
 - c. Product description;
 - d. Product manufacturer (if different);
 - e. Identify the product's applications by vehicle type, make, model, and year;
 - f. Quantity PFISpeed sold during the period June 1, 2019, through the date of this RFI;
 - g. Average PFISpeed sale price;
 - h. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the EGR;
 - i. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the DPF;
 - j. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the catalyst;
 - k. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the NAC;
 - l. Indicate yes or no whether the product allows for the removal, bypass, or deactivation of the SCR;
 - m. Indicate yes or no whether the product decreases the frequency or duration of DPF regenerations;
 - n. Indicate yes or no whether the product decreases the frequency or duration of DEF injection to the SCR;

- o. Indicate yes or no whether the product alters ECM calibrations for fuel injection timing, quantities, pressure, air/fuel ratio, pulse width, or any combination thereof;
 - p. Indicate yes or no whether the product alters OBD parameters to prevent DTCs or MILs from being recorded or illuminated;
 - q. Indicate yes or no whether the product alters OBD parameters to prevent an engine derate or a limp home mode from being activated;
 - r. Indicate if PFISpeed advertised this product and provide the electronic file names of each advertisement (if applicable);
5. Information regarding all invoices PFISpeed issued since January 1, 2019, as that information is kept in the normal course of business in its standard invoice management system (e.g., QuickBooks, Excel, etc.), including the invoices identified in response to Request Nos. 1-4.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this RFI for any business information entitled to confidential treatment under section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. part 2, subpart B. Under section 208(c) of the CAA, entities are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 208(c) of the CAA and 40 C.F.R. part 2, subpart B. If no such business confidentiality claim accompanies the response to this RFI when it is received by the EPA, then such information may be made available to the public without further notice. *See* 40 C.F.R. § 2.203(c).

Pursuant to 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, the EPA may disclose information provided in response to this and other RFI to an EPA contractor, the Eastern Research Group, under contract number EP-W-15-006.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time it provides its response to this RFI. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be provided separately to facilitate identification and handling by the EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. part 2, subpart B. *See* 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

Appendix E

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's (EPA) Request for Information, issued pursuant to section 208(a) of the Clean Air Act (CAA), to determine compliance with the CAA and its affiliated regulations.

I certify that I am fully authorized by _____ [business affiliation] to provide the above information on its behalf to the EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to section 113(c)(2) of the CAA, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Please print this page, Appendix E, sign your name in wet ink, scan, and return electronically with the rest of the requested information.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____